

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106A Rev.

TITLE OF CASE		ATTORNEYS			
<p>Velma Rose Bigheart, Surviving Spouse of William Bigheart, Jr., Deceased Unallotted Osage Indian</p> <p>VS</p> <p>John Pappan, Superintendent of The Osage Indian Agency, John Slater, Field Solicitor of the Osage Indian Agency, Raymond L. Sanford, Regional Solicitor of The Department of the Interior, and Walter J. Hickel, Secretary of the Interior</p> <p>Pearl Hall, Terril Rae Bigheart and Bruce W. Gambill Applicants for Intervention</p> <p>Randy William Bigheart and Matthew Kane, Jr. Intervenors.</p>		<p>For plaintiff: Schockley T. Shoemake Shoemake & Briggs 205 Triangle Bldg. Pawhuska, Okla. 74056</p> <p>For defendant: Nathan G. Graham, U.S. Atty. 460 U.S. Courthouse, Tulsa 74103</p> <p>Bruce Gambill, Box 329) Atty for Hall, Pawhuska, Okla 74056) Bigheart & Gambill</p> <p>Matthew Kane, Jr. (Randy Bigheart & Kane) Commerce Building Pawhuska, Oklahoma 74056</p>			
STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 1-1-70	Clerk	12-15-69	Shoemake	15 00	
		12-18-69	CD 26		15 00
		8-29-72	Briggs	5 00	
		8-31-72	C.D.No.10		5 00
J.S. 6 mailed 8-1-72	Marshal				
Basis of Action: Review of action of Sec. of Inter- ior	Docket fee				
	Witness fees				
Action arose at: Tulsa	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
12-15-69	Complaint for judicial review of action of the Secretary of the Interior and for relief based on such review, filed. Summons issued. m	
12-17-69	Return on service of summons, filed. Served U. S. Attorney at Tulsa, Oklahoma, on 12-15-69. Served Attorney Deneral, Wash. D. C. and Walter J. Hickel, Wash. D. C. on 12-15-69, by certified mail, return receipt requested. (\$3.00) ds	
12-17-69	Return on service of summons filed. Served Raymond L. Sanford, at Tulsa, Okla. on 12-16-69. Served John Pappan at Pawhuska, Oklahoma on 12-16-69. Served John Slater at Pawhuska, Okla on 12-16-69. (\$22.44) ds	
1-14-70	Motion of complainant, Velma Rose Bigheart, to abate or stay proceedings, filed. g	
1-14-70	Brief in support of motion to abate or stay proceedings, filed. g	
1-27-70	Case called for hearing on motion of complainant to abate or stay proceedings. Court orders that motion be stricken from docket of this date. (AEB-J)h	
2-3-70	Plaintiff's motion (and brief) to abate or stay proceedings, filed. g	
2-3-70	Minute Order: Defendants directed to file responsive brief within 10 days. (AEB-J)g	
2-13-70	Response to pltf's motion to abate or stay proceedings, filed. m	
2-13-70	Brief in support of deft's response to pltf's motion to abate or stay proceedings, filed. m	
2-13-70	Defts' motion for enlargement of time within which to answer or otherwise plead, filed. m	
2-13-70	Brief in support of motion for enlargement of time within which to answer or otherwise plead, filed. m	
2-20-70	Reply Brief of Complainant filed. h	
2-20-70	Answer Brief of Complainant filed. h	
4-13-70	Amendment to complaint for judicial review of action of the secy of the interior and for relief based upon such review, filed. ds	
4-20-70	Ordered that the plaintiff file a brief on jurisdiction within 10 days. (AEB-J)m	
4-29-70	Brief concerning jurisdiction of a U.S. Dist. Ct. to stay proceedings commenced in a state court, etc., filed. m (of pltf.)	
4-29-70	Pltf's brief concerning jurisdiction of U.S. Dist. Cts. to hear and determine appeals, etc., filed. m	
5-15-70	Case called for hearing on motions. It is ordered that motion of Complainant to abate overruled and motion of Complainant to stay proceedings is sustained and Mr. Shoemaker to draw order within 10 days. (AEB-J)h	
6-4-70	Order staying proceedings until further order, filed, and directing Clerk to deliver copy of order to Clerk of Dist. Ct. of Osage County, Okla. (AEB-J)m (copy mailed Clerk of Osage County & counsel)	
7-14-70	Motion to Intervene as defendants filed by applicants for intervention, Pearl Hall, Terril Rae Bigheart and Bruce W. Gambill. h	
7-14-70	Brief in support of Motion to Intervene filed. h	
7-14-70	Answer filed by Pearl Hall, Terril Rae Bigheart and Bruce W. Gambell filed. h	
8-4-70	Order allowing intervention, filed. (AEB-J)bv <i>John P. Whitetail</i>	
1-6-71	Transcript of Will hearing before the Dept of Interior with exhibits, filed. h	
1-20-71W	Transcript, filed, of John P. Whitetail. js	
1-20-71	Answer of John Pappan, John Slater, Raymond L. Sanford and Walter J. Hickel, filed. g	
1-29-71	Pltf's motion to strike answer and for judgment by default, with brief in support of motion, filed. m	
1-29-71	Deft. USA directed to file responsive brief to pltf's motion to strike answer within 10 days. (AEB-J)m	

-continued-

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-1-71	Motion of defendants to file answer out of time, filed. g	
2-1-71	Brief in support of motion for leave to file answer out of time, filed. g	
2-10-71	Plaintiffs motion for permission to file brief for purpose of showing right to relief as provided by Rule 44(e), filed. ds	
2-10-71	Ordered by the court that defendants reply to plaintiffs motion for permission to file brief with a response brief within ten days of this date. (AEB-J) ds	
2-16-71	Reply brief to complainants motion for permission to file brief herein for the purpose of showing right to relief as provided by Rule 44(e), filed. ds (Intervenors brief)	
2-16-71	Supplement reply brief to complainants motion for permission to file brief for the purpose of showing right to relief as provided by Rule 44(e), filed. ds (Intervenors brief)	
2-16-71	Defendant USA's reply to plaintiff's motion for permission to file brief for purpose of showing right to relief as provided by Rule 44(e) filed. ds	
3-4-71	Response to motion for permission to intervene, and brief in support, filed. ds	
3-16-71	Brief of appellant in support of motion for default judgment, filed. ds	
4-1-71	Motion of Randy William Bigheart and Matthew Kane, Jr. to intervene as defendants, filed. m (Answer attached)	
4-1-71	Brief in support of motion to intervene, filed. m	
4-2-71	Minute Order: Case is held in abeyance on request of Plaintiff for 30 days only, pending settlement. (AEB-J). js	
5-4-71	Intervenors motion for summary judgment, filed. ds	
5-4-71	Brief in support of motion of intervenors for summary judgment, filed. ds	
5-4-71	Ordered that plaintiff and defendant reply to intervenors' motion for summary judgment with a responsive brief within ten days of this date. (AEB-J) ds	
5-7-71	Motion, with brief attached, of plaintiff for an order allowing 30 days in which to reply to motion of intervenors for summary judgment, filed. ds	
5-10-71	Defendants' motion for enlargement of time to file reply to motion for summary judgment, with supporting brief, filed. g	
5-19-71	Order Sustaining motion to intervene as parties defendant of Randy William Bigheart and Matthew Kane, Jr. filed. (AEB-J)h	
5-19-71	Answer filed by Randy Wm. Bigheart and Matthew Kane, Jr. as guardian ad litem of Randy Wm. Bigheart. h	
6-4-71	Motion for order to strike or to require motion for summary judgment to be made definite, filed. ds brief attached.	
6-4-71	Ordered by the Court that defendants reply to motion of plaintiff for order to strike, etc. within ten days of this date with a responsive brief. (AEB-J) ds	
6-7-71	Motion for additional time in which to respond to motion for order to strike or to require motion for S/J to be made more definite filed by Intervenors, with the exception of Randy Bigheart.h	
6-11-71	Motion of Randy Bigheart for additional time in which to respond to motion for order to strike or to require motion for summary judgment to be made more definite, filed. ds	
7-28-71	Answer brief of intervenors plaintiffs' motion to strike or require motion for summary judgment to be made definite, filed. ds	
7-28-71	Intervenors' motion for summary judgment, filed. ds	

(OVER)

DATE	PROCEEDINGS	Date Order or Judgment Noted
7-29-71	It is ordered that defendants are granted 30 days from this date to file their reply to motion of intervenor for summary judgment. (AEB-J) ds	
7-29-71	It is ordered that plaintiff's motion for additional time filed 5-7-71 is overruled, the same being moot by reason of the filing of the motion for Order to Strike or to Require Motion for summary judgment to be made definite, 6-4-71. (AEB-J) ds	
7-29-71	It is ordered that Intervenor's are granted until August 11, 1971 to file response to plaintiff's motion. (AEB-J) ds	
8-19-71	Defendant's reply to motion of intervenors for summary judgment, filed. v	
8-30-71	Motion for enlargement of time, filed by the Pltff. Filed. r (Brief in support)	
8-30-71	Order granting enlargement of tim for filing of such reply is extended to 9-15-71, filed. (AEB-J)r	
9-15-71	Plaintiff's response to motion for summary judgment, filed. ds	
9-15-71	Plaintiff's motion for extension of time to 9-30-71 to file response to Intervenor's motion for summary judgment, filed. ds	
9-15-71	Order extending time for filing response brief to motion for summary judgment, filed. (AEB-J) ds copies mailed to attorneys - to 9-30-71	
10-8-71	Intervenor's reply brief, filed. ds	
10-12-71	Motion For Summary Judgment, filed. (Appellant) js	
10-12-71	Appellant's Concluding Brief to Motion Intervenor's and Summary Jdge Judgment and Brief in Support of Motion for Summary Judgment. filed. js	
10-13-71	Parties directed to file responsive brief to pltf's motion for S/J within 10 days. (AEB-J)m	
10-22-71	Response to Complainant's Motion for Summary Judgment by deft.s, filed. v	
10-27-71	Answer brief of intervenors to appellant's motion for summary judgment, filed. ds	
10-28-71	Reply to response to complaint's motion for summary judgment, filed. ds	
11-9-71	Motion for permission to amend by complainant, filed. ds	
11-10-71	Motion for order of Court permitting complainant to amend complaint, filed. g	
11-10-71	Order by Court that Magistrate hear Pltff's motion to strike answer and for judgment by default; deft's motion for leave to file answer out of time; pltf's motion for permission to file brief for purpose of showing right to relief as provided by Rule 44(e); intervenors' motion for S/J; pltf's motion for order to strike or to require motion for S/J to be made definite; intervenors' motion for S/J and pltf's motion for S/J. (AEB-J)m	
11-10-71	Case called for hearing on vario us motions, these motions having been referred to U.S. Mag. for hearing & recommendation. All the motions listed above in minute order of 11-10-71 are passed to a later motion docket. Defts. and intervenors given 10 days to file desired pleadings & pltf. given 5 days thereafter to respond. Pltff. to prepare orders for Mag. and Judge Barrow. (MLB-Mag)v	
11-19-71	Brief of intervenors in opposition to motion to amend complaint, filed. m	
11-29-71	Brief of complainant answering Intervenor's brief opposing complainant's motions to amend complaint, filed. g	
11-23-71	Order filed, that the complainant's time to submit brief in support of Motion to Amend be extended until December 3, 1971, filed. (AEB-J)r (copies mailed to attys) (continued)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
11-29-71	Findings and Recommendations of the U.S. Magistrate, filed. (MLB-U.S. Mag.)v	
11-29-71	Order approving the findings and recommendations of the Magistrate, filed. (AEB-J)v (Copies Mailed.)	
11-30-71	Brief of Defendants in Opposition to Motion to Amend Complaint, filed.v Leave to file out of time is granted by the Magistrate, filed (as a part of the pleading). (MLB-U.S. Mag.)v	
12-6-71	Response of complainant to brief of defendants (Government Officials) to Motion of complainant seeking permission to amend, filed. v	
12-7-71	Motion for Permission to Amend Complaint, with supporting Brief, filed. v	
12-8-71	Ordered that U.S. Magistrate conduct the hearing on the following motions:: Pltf.'s Motion to strike answer and for judgment by default, Deft.'s Motion for leave to file answer out of time, Pltf.'s Motion for permission to file brief for purpose of showing right to relief as provided by Rule 55(e) -(changed from 44(e)), Intervenor's Motion for summary Judgment, Pltf.'s Motion for order to strike or to require motion motion for summary judgment to be made definite, Intervenor's Motion for summary judgment, Pltf.'s Motion for summary judgment, motion for permission to amend by Complainant. (AEB-J)v	
12-8-71	Case called for hearing on above mentioned motions. Pltf.'s motion to strike answer & for judgment by default--Moot. Deft.'s Motion leave to file answer--Moot. Pltf.'s motion to file brief as to rule 55(e)--Dismissed. Intervenor's motion for summary judgment--Held in Abeyance. Pltf.'s motion to strike or motion for summary judgment to be definite--Dismissed by Counsel of the Pltf. Pltf.'s motion for summary judgment--Held in Abeyance. Motion to Amend by Complainant--Granted until 12-20-71 to Amend. Intervenor and the Deft.'s counsel is then to have 10 days to reply to the Amended complaint. (MLB-U.S. Mag.)(Millie Ballard-CSR)v	
12-8-71	Pltfs' Responsive Brief to Motion for Summary Judgment, filed.r	
12-17-71	Amendment to Complaint of pltf., filed. rm	
12-17-71	Affidavit of Mailing Amend. to Complaint, filed. rm	
12-20-71	Order, filed, that motion to amend by complainant is granted until 12-20-71. (AEB-J)m	
12-27-71	Amended motion for summary judgment, filed. ds	
12-27-71	Intervenor's brief in support of motion for summary judgment, filed. ds	
12-27-71	Amendment to petition in intervention, filed. ds	
1-19-72	Objection to enlargement of time to file brief, with brief in support of objection, filed. (filed by intervenors)hm	
1-19-72	Appellant's motion for enlargement of time within which to file brief, with brief in support of motion, filed. hm	
1-20-72	Order, granting plaintiff extension of time to 2-7-72 to file brief, filed. (shall be the last to be granted in this already "old" case." (AEB-J) ds <i>Copies Mailed</i>	
2-1-72	Answer of the Deft.s, to Amendment to Complaint, filed. v --With Order granting leave to file their Answer to Amendment to Complaint out of time, filed. (AEB-J)v	
2-7-72	Brief of complainant, filed. rm	
3-6-72	Answer brief of intervenors to brief of complainant dated 2/4/72, filed.rm	
3-14-72	Ordered that Magistrate conduct hearing on pltf's motion for S/J & intervenor's amended motion for S/J. (AEB-J)hm	
3-14-72	Hearing held on above motions. Pltf's motion for S/J denied & intervenor's motion for S/J sustained. Counsel for intervenor to prepare recommendation & order within 5 days. (MLB-Mag)hm	

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-17-72	Application of Appellant for Injunction, with brief, filed. v	
3-24-72	Motion of Intervenor to strike complainants' application for injunction, with brief, filed. v	
3-24-72	Ordered by the Court that the Plaintiff is given 10 days from this date to respond to Intervenor's Motion to strike complainants' appl. for injunction. (AEB-J)v	
3-24-72	Pltf's Objections to findings and recommendations of Magistrate, filed. r	
3-29-72	Application of pltf. for ext. of time to file brief relative to Magis. recom., filed. rm	
4-3-72	Findings and recommendations of magistrate, filed. (MLB-Mag) ds	
4-3-72	Order, filed, that parties be notified that they have ten days to file objections, supported by a brief. If no objections are filed within ten days, objections shall be waived and Court will enter an order adopting the recommendations of the U. S. Magistrate. copies mailed to attorneys ds	
4-7-72	Reply brief of intervenors, filed. hm	
4-10-72	Appellants' Motion to strike Order relative to action to be taken upon Findings and Recommendations of Magistrate w/Brief in support, filed. r (no letter written per M.C.)	
4-19-72	Application for order authorizing amendment to complaint, with brief, filed. ds	
4-21-72	Brief of pltf. in support of appl. for convocation of 3-judge ct., filed. rm	
4-24-72	Plaintiff's supplemental brief, filed. ds	
4-24-72	Plaintiff's Brief in answer to intervenor's Brief in support of Intervenor's Motion to Strike Appellant's Appl for hearing by 3-judge court of Appellant's appl. for injunction, filed. r	
5-5-72	Intervenor's answer brief to complainants' brief, etc. (7 items), filed. hm	
6-21-72	Suppl. to pltf.'s briefs re summary judgment, filed. rm	
7-31-72	Findings of fact, conclusions of law; order overruling pltf's objections to recommendation of Mag; order overruling pltf's motion for S/J; order sustaining intervenor's motion for S/J, filed, and entered (AEB-J)hm (copies mailed)	
8-14-72	Motion of pltf. for new trial and for reconsideration, with brief in support thereof, filed. rm	
8-14-72	Ordered that defs. are granted 10 days in which to respond to pltf.'s motion for new trial and for reconsideration. (AEB-J) rm - ltr written	
8-15-72	Supple. to mo. for reconsideration or new trial, filed. rm - cpy to M.	
8-22-72	Intervenor's brief in opposition to plaintiff's motion for new trial and for reconsideration, filed. ds	
8-23-72	Response to Motion for New Trial and for reconsideration, filed by Deft., U.S.A. v	
8-23-72	Plaintiffs' brief in re ninth and tenth amendment allegations made in support of motion for reconsideration and new trial, filed. g	
8-23-72	Order overruling plaintiff's motion for new trial and for consideration, filed & entered. (AEB-J)g copies mailed.	
8-25-72	Motion to vacate, etc. mc	
8-29-72	Notice of appeal by plaintiff, filed. cpy to USCA, US Atty, Gambill, and Kane. g	

DATE	PROCEEDINGS	Date Order or Judgment Noted
8-30-72	The Court has for consideration the Motion to Vacate and to Set Aside Order Overruling Plaintiff's (Appellant's) Motion for New Trial and for Reconsideration and Praying that Court Fix time for trial. Plaintiff filed Notice of Appeal on August 29, 1972, thus divesting this Court of jurisdiction. Plaintiff's Motion is moot, this Court having been divested of jurisdiction. (AEB-J)js	
9-5-72	Bond for Costs on Appeal, filed by Velma Rose Bigheart, as principal & Surety, filed. v	
9-11-72	Designation of record by plaintiff, filed. g	
9-15-72	Appeal record (7 volumes) sent to USCA. g	
10-3-73	Mandate & Opinion of USCA affirming judgment of 7-31-72, filed and spread of record. g	
10-17-73	Appeal record (5 volumes) recd. from USCA (2 vols. previously ret'd.)rm	
1-4-74	Petition for Writ of Certiorari filed in Supreme Court as 73-1050.g	
11-13=74	Order, filed, permitting Bruce W. Gambill, et al, to withdraw records for use in probate proceedings in Osage County District Court. (AEB-J)g (Transcript re will of Wm. Bigheart, Jr., & exhibits.)	

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